
SENATE BILL 5012

State of Washington 58th Legislature 2003 Regular Session

By Senators Johnson, Finkbeiner, Esser and Oke

Read first time 01/13/2003. Referred to Committee on Education.

1 AN ACT Relating to charter schools; amending RCW 41.59.080; adding
2 a new section to chapter 41.56 RCW; adding a new section to chapter
3 41.59 RCW; adding a new chapter to Title 28A RCW; and declaring an
4 emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** INTENT. The legislature intends to
7 authorize the establishment of charter schools for the purpose of
8 providing a unique setting for learning that will improve pupil
9 achievement and provide additional public school choices for students,
10 parents, and teachers.

11 NEW SECTION. **Sec. 2.** DEFINITIONS. Unless the context clearly
12 requires otherwise, the definitions in this section apply throughout
13 this chapter.

14 (1) "Applicant" means a nonprofit corporation that has submitted an
15 application to a sponsor to obtain approval to operate a charter
16 school. The nonprofit corporation must either be a public benefit
17 nonprofit corporation as defined in RCW 24.03.490, or a nonprofit
18 corporation as defined in RCW 24.03.005 that has applied for tax-exempt

1 status under section 501(c)(3) of the internal revenue code of 1986 (26
2 U.S.C. Sec. 501(c)(3)). The nonprofit corporation may not be a
3 sectarian or religious organization and must meet all of the
4 requirements for a public benefit nonprofit corporation before
5 receiving any funding under section 12 of this act.

6 (2) "Charter" means a contract between an applicant and a sponsor.
7 The charter establishes, in accordance with this chapter, the terms and
8 conditions for the management, operation, and educational program of
9 the charter school.

10 (3) "Charter school" means a public school managed by an
11 applicant's board of directors and operating independently of any
12 school district board under a charter approved in accordance with this
13 chapter.

14 (4) "Board of directors" means the board of directors of the public
15 benefit nonprofit corporation that manages and operates the charter
16 school.

17 (5) "Sponsor" means: (a) The school district in which the charter
18 school is located; (b) the state and regional universities as defined
19 in RCW 28B.10.016; or (c) The Evergreen State College. Charter schools
20 sponsored under (b) or (c) of this subsection shall be approved by the
21 governing board of the sponsoring institution or by an official or
22 agency designated by and accountable to the governing board.

23 NEW SECTION. **Sec. 3.** CHARTER SCHOOLS--POWERS. (1) The charter
24 school's board of directors may hire, manage, and discharge any charter
25 school employee in accordance with the terms of this chapter and that
26 school's charter.

27 (2) The charter school's board of directors may enter into a
28 contract with any school district, or any other public or private
29 entity, also empowered to enter into contracts, for any and all real
30 property, equipment, goods, supplies, and services, including
31 educational instructional services.

32 (3) Charter schools may rent, lease, or own property, but may not
33 acquire property by eminent domain. All charters and charter school
34 contracts with other public and private entities must include
35 provisions regarding the disposition of the property if the charter
36 school fails to open as planned, closes, or the charter is revoked or
37 not renewed. Charter schools may accept gifts and donations from other

1 governmental and private entities, excluding sectarian or religious
2 organizations. Charter schools may not accept any gifts or donations
3 the conditions of which violate this chapter.

4 (4) Neither a charter school sponsor nor the school district in
5 which the charter school is located is liable for acts or omissions of
6 a charter school, including acts or omissions related to the
7 application, the charter, the operation, and the performance of the
8 charter school.

9 (5) Charter schools may not charge tuition, levy taxes, or issue
10 bonds, however they may charge fees for optional noncredit
11 extracurricular events.

12 NEW SECTION. **Sec. 4.** LEGAL STATUS. A charter school is a public
13 school including one or more of grades kindergarten through twelve,
14 operated by a public benefit nonprofit corporation, according to the
15 terms of a renewable five-year contract granted by a sponsor.

16 NEW SECTION. **Sec. 5.** CHARTER SCHOOLS--EXEMPTIONS. (1) A charter
17 school shall operate independently of any school district board, under
18 a charter approved by a sponsor under this chapter.

19 (2) Charter schools are exempt from all state statutes and rules
20 applicable to school districts and school district boards of directors
21 except as provided in this chapter and in the school's approved
22 charter.

23 (3) A charter school's board of directors may elect to comply with
24 one or more provisions of the statutes or rules that are applicable to
25 school districts and school district board of directors.

26 (4) All approved charter schools shall:

27 (a) Comply with state and federal health, safety, and civil rights
28 laws applicable to school districts;

29 (b) Participate in nationally normed standardized achievement tests
30 as required in RCW 28A.230.190, 28A.230.193, and 28A.230.230 and the
31 elementary, middle school, and high school standards and assessment
32 examinations as required in RCW 28A.655.060;

33 (c) Employ certificated instructional staff as required in RCW
34 28A.410.010, however charter schools may hire noncertificated
35 instructional staff of unusual competence and in exceptional cases as
36 specified in RCW 28A.150.260;

1 (d) Comply with the employee record check requirements in RCW
2 28A.400.303;

3 (e) Be subject to the same financial and audit requirements as a
4 school district;

5 (f) Comply with the annual performance report under RCW
6 28A.655.110;

7 (g) Report at least annually to its sponsor and to parents of
8 children enrolled at the charter school on progress toward the student
9 performance goals specified in the charter; and

10 (h) Comply with the open public meetings act in chapter 42.30 RCW.

11 NEW SECTION. **Sec. 6.** ADMISSION REQUIREMENTS. (1) A charter
12 school must enroll all students who submit a timely application. If
13 capacity is insufficient to enroll all students who submit a timely
14 application, the charter school must give enrollment priority to
15 students who reside within the school district boundaries in which the
16 charter school is physically located. Priority also must be given to
17 siblings of students who are currently enrolled in the school.
18 Students must be selected through an equitable selection process, such
19 as a lottery, to fill any remaining spaces. Schools that convert to
20 charter schools must also give priority to the students who are
21 currently enrolled in school.

22 (2) A charter school may not limit admission based on race,
23 religion, ethnicity, national origin, gender, income level,
24 intellectual ability, disabling condition, proficiency in the English
25 language, or athletic ability. A charter school may limit admission to
26 students within a given age group or grade level.

27 NEW SECTION. **Sec. 7.** CHARTER APPLICATION--CHARTERING PROCESS.

28 (1) An applicant may apply to a sponsor to establish a charter school
29 as provided in this section.

30 (2) An application for a charter school may be submitted to any
31 qualified sponsor.

32 (3) The local school district board of directors must hold a public
33 hearing in the school district on the application within sixty days of
34 receipt of the application. The school board must either accept or
35 reject the application within thirty days after the hearing. The

1 thirty-day deadline for acceptance or rejection of the charter school
2 application may be extended for an additional thirty days if both
3 parties agree in writing.

4 (4) If the local school board rejects the application, the school
5 board must notify the applicant in writing of the reasons for the
6 rejection. The applicant may submit a revised application for the
7 school board's reconsideration. The school board may provide
8 assistance to improve the application. If the school board rejects the
9 application after submission of a revised application, the school board
10 must notify the applicant in writing of the reasons for the rejection.

11 (5) Sponsors other than school districts must comply with the
12 procedures in subsections (1) through (4) of this section for
13 consideration of the charter application. The sponsor is not bound by
14 the school board's findings or decision to deny the application.

15 (6) The superintendent of public instruction shall maintain copies
16 of all approved charter applications. An applicant may obtain copies
17 of those applications from the office of the superintendent of public
18 instruction.

19 NEW SECTION. **Sec. 8.** APPLICATION REQUIREMENTS. The charter
20 school application is a proposed contract and must include:

21 (1) The identification and description of the nonprofit corporation
22 submitting the application, including the names and descriptions of the
23 individuals who will operate the school;

24 (2) The nonprofit corporation's proposed articles of incorporation,
25 bylaws, and most recent financial statement and balance sheet;

26 (3) A mission statement for the proposed school, consistent with
27 the description of legislative intent in this chapter;

28 (4) A description of the school's educational program, including
29 curriculum and instructional strategies;

30 (5) A description of the school's admissions policy and marketing
31 program, including deadlines for applications or admission;

32 (6) A description of student performance standards that must meet
33 those determined under RCW 28A.655.060, and be measured according to
34 the assessment system determined under RCW 28A.655.060;

35 (7) A description of the plan for evaluating student performance
36 and the procedures for taking corrective action in the event that

1 student performance at the charter school falls below standards
2 established in its charter;

3 (8) A description of the financial plan for the school. The plan
4 shall include: (a) A proposed five-year budget of projected revenues
5 and expenditures; (b) a plan for starting the school; (c) a five-year
6 facilities plan; (d) evidence supporting student enrollment projections
7 of at least twenty students; and (e) a description of major contracts
8 planned for equipment and services, leases, improvements, purchases of
9 real property, and insurance;

10 (9) A description of the proposed financial management procedures,
11 including annual audits of the school's financial and administrative
12 operations, which shall meet or exceed generally accepted standards of
13 management and public accounting;

14 (10) An assessment of the school's potential legal liability and a
15 description of the types and limits of insurance coverage the nonprofit
16 corporation plans to obtain that are adequate. For purposes of this
17 subsection, a liability policy of between one million and five million
18 dollars is required;

19 (11) A description of the procedures to discipline and dismiss
20 students; and

21 (12) A description of procedures to assure the health and safety of
22 students, employees, and guests of the school and to comply with
23 applicable federal and state health and safety laws and regulations.

24 NEW SECTION. **Sec. 9.** APPROVAL CRITERIA. A sponsor may approve an
25 application for a charter school, if in the sponsor's reasonable
26 judgment, after exercising due diligence and good faith, the sponsor or
27 alternate sponsor finds:

28 (1) The applicant is a public benefit nonprofit corporation and the
29 individuals it proposes to manage the school are qualified to operate
30 a charter school and implement the proposed educational program;

31 (2) The mission statement is consistent with the description of
32 legislative intent and restrictions on charter school operations in
33 this chapter;

34 (3) The school's proposed educational program is free from
35 religious or sectarian influence;

36 (4) The school's proposed educational program includes student

1 academic performance standards that meet those determined under RCW
2 28A.655.060 and are measured according to the assessment system
3 determined under RCW 28A.655.060;

4 (5) The application includes a viable plan for evaluating pupil
5 performance and procedures for taking appropriate corrective action in
6 the event that pupil performance at the charter school falls below
7 standards established in its charter;

8 (6) The school's educational program, including curriculum and
9 instructional strategies, has the potential to improve student
10 performance as measured under section 5 of this act;

11 (7) The application includes school performance standards, which
12 must meet those determined under the statewide accountability system
13 adopted by the legislature pursuant to RCW 28A.630.885(3)(h)(i);

14 (8) The school's admissions policy and marketing program is
15 consistent with state and federal law;

16 (9) The financial plan for the school is designed to reasonably
17 support the charter school's educational program based on a review of
18 the proposed five-year budget of projected revenues, expenditures, and
19 facilities;

20 (10) The school's financial and administrative operations,
21 including its annual audits, meet or exceed generally accepted
22 standards of accounting and management;

23 (11) The assessment of the school's potential legal liability, and
24 the types and limits of insurance coverage the school plans to obtain,
25 are adequate. For purposes of this subsection, a liability policy of
26 between one million and five million dollars is required;

27 (12) The procedures the school plans to follow for discipline and
28 dismissal of students are reasonable and comply with federal law;

29 (13) The procedures the school plans to follow to assure the health
30 and safety of students, employees, and guests of the school comply with
31 applicable state and federal health and safety laws and regulations;
32 and

33 (14) The public benefit nonprofit corporation has been approved or
34 conditionally approved by the internal revenue service for tax exempt
35 status under section 501(c)(3) of the internal revenue code of 1986 (26
36 U.S.C. Sec. 501(c)(3)).

1 NEW SECTION. **Sec. 10.** CHARTER AGREEMENT--AMENDMENT. (1) A
2 charter application approved by a sponsor with any changes constitutes
3 a charter.

4 (2) A charter may be amended during its term at the request of the
5 charter school board of directors and on the approval of the sponsor.

6 NEW SECTION. **Sec. 11.** CHARTER RENEWAL AND REVOCATION. (1) An
7 approved plan to establish a charter school is effective for five years
8 from the first day of operation. At the conclusion of the first three
9 years of operation, the charter school may apply to the sponsor for
10 renewal. A request for renewal must be submitted no later than six
11 months before the expiration of the charter.

12 (2) A charter school renewal application must include:

13 (a) A report on the progress of the charter school in achieving the
14 goals, student performance standards, and other terms of the charter;
15 and

16 (b) A financial statement that discloses the costs of
17 administration, instruction, and other expenditure objects and
18 activities of the charter school.

19 (3) The sponsor may reject the application for renewal if any of
20 the following occurred:

21 (a) The charter school materially violated its contract with the
22 sponsor, as set forth in the charter;

23 (b) The students enrolled in the charter school failed to meet
24 student performance standards identified in the charter;

25 (c) The charter school failed to meet generally accepted standards
26 of fiscal management; or

27 (d) The charter school violated provisions in law that have not
28 been waived in accordance with this chapter.

29 (4) A sponsor shall give written notice of its intent not to renew
30 the charter school's request for renewal to the charter school within
31 one month of the request for renewal to allow the charter school an
32 opportunity to correct identified deficiencies in its operation. At
33 the request of the board of directors of the charter school, the
34 sponsor shall review its decision for nonrenewal after the charter
35 school has corrected any identified deficiencies.

36 (5) The sponsor may revoke a previously approved charter before the
37 expiration of the term of the charter, and before application for

1 renewal, for any of the reasons specified in subsection (3) of this
2 section. Except in cases of emergency where the health and safety of
3 children are at risk, a charter may not be revoked unless the sponsor
4 first provides written notice of the specific violations alleged, a
5 public hearing, and a reasonable opportunity for the charter school to
6 correct the identified areas of concern. The sponsor of a charter
7 school shall provide for an appeal process upon a determination by the
8 sponsor that grounds exist to revoke a charter.

9 NEW SECTION. **Sec. 12.** FUNDING. (1) When the sponsor is a school
10 district:

11 (a) For purposes of funding, students in charter schools shall be
12 considered students of the sponsoring district for general fund
13 apportionment purposes. The sponsoring school district shall provide
14 funding for charter schools on a per student basis in amounts the
15 schools would have received if the students were enrolled in a
16 noncharter school in the district except that a charter school shall
17 not generate eligibility for small school assistance. Funding for
18 charter schools shall include regular apportionment, categorical, and
19 nonbasic education funds, as appropriate and shall be based on
20 enrollment and other financial information submitted by the charter
21 school to the school district as is required to determine state
22 apportionment amounts;

23 (b) Local levy moneys approved by the voters before the effective
24 date of a charter between a school district and an applicant shall not
25 be allocated to a charter school unless the sponsoring school district
26 determines it has received sufficient authority from voters to allocate
27 maintenance and operation excess tax levy money to the charter school.
28 For levies approved after the effective date of a charter, charter
29 schools shall be included in levy planning, budgets, and funding
30 distribution in the same manner as other schools in the district; and

31 (c) A charter school is eligible for state matching funds for
32 common school construction if a sponsoring school district determines
33 it has received voter approval of local capital funds for the project.

34 (2) Public schools converting to charter schools shall receive
35 funding in the same manner as other charter schools.

36 (3) If the sponsor is not a school district, students in the
37 charter school shall be considered students of the district in which

1 the charter school is located for general fund apportionment purposes.
2 The superintendent of public instruction shall provide funding for
3 charter schools on a per student basis in amounts the schools would
4 have received if the students were enrolled in a noncharter school in
5 the district except that a charter school shall not generate
6 eligibility for small school assistance. The funding shall include
7 regular apportionment, categorical, and nonbasic education funds and
8 shall be based on enrollment and other financial information submitted
9 by the charter school to the school district as is required to
10 determine state apportionment amounts.

11 (4) No local levy money may be allocated to a charter school if the
12 charter school is sponsored by an alternate sponsor.

13 NEW SECTION. **Sec. 13.** ADMINISTRATION FEE. To offset costs of
14 oversight and administering the charter, a sponsor may retain up to
15 three percent of state funding and local excess levy funding, if
16 applicable, that is being driven to the charter school. Except for the
17 administration fee in this section, no other offsets or deductions are
18 allowed, whether for central administration or other off-site support
19 services, from a charter school's per-pupil share of state
20 appropriations, local levies, or other funds, unless the charter school
21 has contracted with a school district to obtain specific additional
22 services.

23 NEW SECTION. **Sec. 14.** CHARTER SCHOOL ASSISTANCE ACCOUNT. The
24 charter school assistance account is created in the custody of the
25 state treasurer. All receipts from appropriations shall be deposited
26 into the account. Expenditures from the account may be used only to
27 provide financial grants to approved charter schools for start-up
28 costs. Charter schools may receive up to two hundred fifty dollars per
29 student for start-up costs. Only the superintendent of public
30 instruction or the superintendent's designee may authorize expenditures
31 from the account. The account is subject to allotment procedures under
32 chapter 43.88 RCW, but no appropriation is required for expenditures.
33 Start-up moneys shall be distributed to schools with approved charters
34 on a first-come, first-served basis.

1 NEW SECTION. **Sec. 15.** RULES--GRANTS. The office of the
2 superintendent of public instruction shall adopt rules to implement
3 section 14 of this act.

4 If an applicant for a charter school receives a grant under section
5 14 of this act and fails to begin operating a charter school within the
6 next eighteen months, the applicant must immediately reimburse the
7 office of the superintendent of public instruction for the amount of
8 the grant.

9 NEW SECTION. **Sec. 16.** LEAVES OF ABSENCE. If a school district
10 employee makes a written request for an extended leave of absence to
11 work at a charter school, the school district shall grant the request.
12 The school district may require that the request for a leave be made up
13 to ninety days before the employee would otherwise have to report for
14 duty. The leave shall be granted for up to three years. If the
15 employee returns to the school district within the three-year period,
16 the employee shall be hired before the district hires anyone else with
17 fewer years of service, with respect to any position for which the
18 returning employee is certificated or otherwise qualified.

19 NEW SECTION. **Sec. 17.** STUDY OF CHARTER SCHOOLS. The Washington
20 institute for public policy shall study the implementation and
21 effectiveness of this act. The institute shall make recommendations to
22 the legislature about the effectiveness of charter schools and the
23 impact of charter schools. The institute shall also recommend changes
24 to this chapter including improvements that could be made to the
25 application and approval process. A preliminary report of the study is
26 due to the legislature by September 1, 2005, and a final report is due
27 September 1, 2007.

28 NEW SECTION. **Sec. 18.** NUMBER OF CHARTER SCHOOLS. (1) The maximum
29 number of charters that can be granted under this chapter is twenty in
30 any given year commencing July 1, 2003, for the first four years.
31 These annual allocations shall be cumulative so that if the maximum is
32 not reached in any given year the maximum shall be increased
33 accordingly for the successive years.

34 (2) A sponsor may not sponsor a charter school in a school district

1 with a student enrollment of less than one thousand students until June
2 1, 2005.

3 (3) For purposes of monitoring compliance with this section and
4 providing information to new charter school applicants, the
5 superintendent of public instruction shall maintain a running total of
6 the projected and actual enrollment at charter schools and the number
7 of charters granted.

8 (4) For purposes of implementing this subsection, a sponsor shall
9 notify the office of the superintendent of public instruction when it
10 receives a charter school application, when it approves a charter
11 school, and when a charter school is terminated.

12 (5) The maximum number of charter schools allowed under this
13 section does not include public schools converting to charter schools.

14 NEW SECTION. **Sec. 19.** A new section is added to chapter 41.56 RCW
15 to read as follows:

16 This chapter applies to charter schools as defined in section 2 of
17 this act and the charter school's employees included in the bargaining
18 unit. The bargaining unit of employees of charter schools must be
19 limited to the employees of the charter school and must be separate
20 from other bargaining units in the school district or educational
21 service district.

22 This section, designating charter schools as employers and charter
23 schools as members under the teachers' retirement systems and the
24 public employees' retirement systems, takes effect only if the
25 department of retirement systems receives determinations from the
26 internal revenue service and the United States department of labor that
27 such participation does not jeopardize the status of these retirement
28 systems as governmental plans under the federal employees' retirement
29 income security act and the internal revenue code.

30 NEW SECTION. **Sec. 20.** A new section is added to chapter 41.59 RCW
31 to read as follows:

32 This chapter applies to collective bargaining agreements between
33 charter schools and the employees of charter schools included in the
34 bargaining unit. The bargaining unit of employees of charter schools
35 must be limited to the employees of the charter school and must be
36 separate from other bargaining units in the school district.

1 This section, designating charter schools as employers and charter
2 schools as members under the teachers' retirement systems and the
3 public employees' retirement systems, takes effect only if the
4 department of retirement systems receives determinations from the
5 internal revenue service and the United States department of labor that
6 such participation does not jeopardize the status of these retirement
7 systems as governmental plans under the federal employees' retirement
8 income security act and the internal revenue code.

9 **Sec. 21.** RCW 41.59.080 and 1998 c 244 s 11 are each amended to
10 read as follows:

11 The commission, upon proper application for certification as an
12 exclusive bargaining representative or upon petition for change of unit
13 definition by the employer or any employee organization within the time
14 limits specified in RCW 41.59.070(3), and after hearing upon reasonable
15 notice, shall determine the unit appropriate for the purpose of
16 collective bargaining. In determining, modifying or combining the
17 bargaining unit, the commission shall consider the duties, skills, and
18 working conditions of the educational employees; the history of
19 collective bargaining; the extent of organization among the educational
20 employees; and the desire of the educational employees; except that:

21 (1) A unit including nonsupervisory educational employees shall not
22 be considered appropriate unless it includes all such nonsupervisory
23 educational employees of the employer; and

24 (2) A unit that includes only supervisors may be considered
25 appropriate if a majority of the employees in such category indicate by
26 vote that they desire to be included in such a unit; and

27 (3) A unit that includes only principals and assistant principals
28 may be considered appropriate if a majority of such employees indicate
29 by vote that they desire to be included in such a unit; and

30 (4) A unit that includes both principals and assistant principals
31 and other supervisory employees may be considered appropriate if a
32 majority of the employees in each category indicate by vote that they
33 desire to be included in such a unit; and

34 (5) A unit that includes supervisors and/or principals and
35 assistant principals and nonsupervisory educational employees may be
36 considered appropriate if a majority of the employees in each category
37 indicate by vote that they desire to be included in such a unit; and

1 (6) A unit that includes only employees in vocational-technical
2 institutes or occupational skill centers may be considered to
3 constitute an appropriate bargaining unit if the history of bargaining
4 in any such school district so justifies; and

5 (7) Notwithstanding the definition of collective bargaining, a unit
6 that contains only supervisors and/or principals and assistant
7 principals shall be limited in scope of bargaining to compensation,
8 hours of work, and the number of days of work in the annual employment
9 contracts; and

10 (8) The bargaining unit of certificated employees of school
11 districts, educational service districts, or institutions of higher
12 education that are education providers under chapter 28A.193 RCW must
13 be limited to the employees working as education providers to juveniles
14 in each adult correctional facility maintained by the department of
15 corrections and must be separate from other bargaining units in school
16 districts, educational service districts, or institutions of higher
17 education; and

18 (9) The bargaining unit for employees of charter schools as defined
19 in section 2 of this act must be limited to the employees of the
20 charter school and must be separate from other bargaining units in the
21 school district or educational service district.

22 NEW SECTION. Sec. 22. CAPTIONS NOT LAW. Captions used in this
23 chapter do not constitute any part of the law.

24 NEW SECTION. Sec. 23. Sections 1 through 18 and 22 of this act
25 constitute a new chapter in Title 28A RCW.

26 NEW SECTION. Sec. 24. This act is necessary for the immediate
27 preservation of the public peace, health, or safety, or support of the
28 state government and its existing public institutions, and takes effect
29 immediately.

30 NEW SECTION. Sec. 25. If any provision of this act or its
31 application to any person or circumstance is held invalid, the
32 remainder of the act or the application of the provision to other
33 persons or circumstances is not affected.

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